

# DEPARTMENT OF MENTAL HEALTH

## POLICY / PROCEDURE



SUBJECT: <b>SUSPENSION OF PAYMENTS DUE TO CONTRACTOR DEFAULT</b>	POLICY NO. <b>110.17</b>	EFFECTIVE DATE <b>09/15/02</b>	PAGE <b>1 of 2</b>
APPROVED BY:  Director	SUPERSEDES <b>12/01/95</b>	ORIGINAL ISSUE DATE <b>12/01/90</b>	DISTRIBUTION LEVEL(S) <b>2</b>

- PURPOSE:** 1.1 To provide policy and guidelines to enable Contractors to correct areas of default with any provisions of the Agreement between County and Contractor, applicable law and/or sound fiscal management practices.
- BACKGROUND:** 2.1 Contractor non-compliance under any provisions of the Agreement between County and Contractor, applicable laws and/or sound fiscal management practices may result in the default of the Contractor's Agreement with the County. Such non-compliance may be made known through various sources, established processes such as program and financial audits and monitoring reviews and activities, and through reports received directly from concerned individuals or entities. The severity and materiality of non-compliance may result in default with the contractual requirements that will necessitate sanction to mitigate client and financial risk to the County. The Agreement provides suspension of payments to the Contractor as a sanction for default. It is, however, in the best interest of the clients, County and Contractor that the Department of Mental Health (DMH) offers the contractor an opportunity to correct areas of non-compliance in order to avert implementation or initiation of suspension of payments.
- POLICY:** 3.1 At the sole discretion of the DMH Director, payments to a Contractor under the Agreement may be suspended if the DMH Director determines the Contractor is in default under any of the provisions of the Agreement which the DMH Director believes related to proper patient/client care and services, compliance with applicable law and/or sound fiscal management practices.
- PROCEDURE:** 4.1 Upon the DMH Director's determination that the Contractor is in default under any of the provisions described under Section 3.1, the DMH Director or designee shall issue an order to the Financial Services Bureau to effect suspension of payments to the Contractor.
- 4.2 Simultaneously or immediately following the order of the suspension of payments, then:
- 4.2.1 The DMH Director or designee shall promptly provide notice by fax or certified or registered mail to the Contractor of the default(s).

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4.2.2 The Contractor shall submit a complete plan of correction to the DMH Director within thirty (30) days following the date of the DMH Director's notice described under 4.2.1. The plan shall include time frames for completion of corrective implementation and shall be subject to the DMH Director's written approval.

4.2.3 The DMH Director or designee shall make reasonable efforts to assist the Contractor in the implementation of the plan of correction, as appropriate. It is recognized, however, that the Contractor shall be totally liable and responsible for the implementation of the plan of correction.

4.2.4 The Contractor shall work cooperatively with the County to correct all areas in which the Contractor was found to be in default.

4.3 Any or all of the provisions of Section 4.2 may be waived at the sole discretion of the DMH Director. In the event the DMH Director, in his/her sole judgment, determines that the Contractor has failed to comply in a timely manner with any of the provisions of Section 4.2 above, then the Contractor shall be deemed to have waived the provisions of Section 4.2.

### **AUTHORITY:**

### **REVIEW DATE:**

Department of Mental Health Policy

This policy shall be reviewed on or before July 1, 2006.